



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,535	12/11/2003	Donald W. Kendrick	085.10968-US(03-438)	7733
34704 7590 12/28/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER MARKOFF, ALEXANDER	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/733,535

Applicant(s)

KENDRICK ET AL.

Examiner

Alexander Markoff

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) 7, 14-15, and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-6, 8-13 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over YU P1756/88 in view of paper of Huque, WO 96/23168 and Lagen et al (US Patent No 5,076,103.

YU P1756/88 teaches an apparatus as claimed except for specific recitation of a pressure sensor. See entire document, especially Figures 1 and 2 and the related description, pages 3-6 of the translation.

It is not clear from YU P1756/88 whether or not the pressure measuring means are presented.

However, the document is concerned about the pressure of the reagents and the proper cleaning pressure. Thereby, the disclosure of YU P1756/88 encompasses providing a pressure sensor in the apparatus of YU P1756/88 in order to control the functioning of the apparatus.

Moreover, paper of Huque and WO 96/23168 teach that the use of pressure sensors was known in the art to control functioning of the pressure wave cleaning apparatuses and to ensure proper cleaning action of the apparatuses.

It would have been obvious to an ordinary artisan at the time the invention was made to provide the apparatus of YU P1756/88 with a pressure sensor to enable control of the apparatus with reasonable expectation of success since the teaching of YU P1756/88 encompasses such and since the secondary documents teach such as conventional.

Neither, YU P1756/88, nor paper of Huque or WO 96/23168 teaches the details of the pressure measuring means.

However, the pressure measuring probes as claimed were known in the art as evidenced by Lagen et al. See entire document, especially Figures 1, 3, 4 and the related description.

Lagen et al recommends the disclosed probe for use in the environments where the probe is constantly subjected to high temperatures.

It would have been obvious to an ordinary artisan at the time the invention was made to incorporate the probe of Lagen et al into the modified apparatus of YU P1756/88 as pressure measuring means since Lagen et al recommends the probe for the use in high temperature and pressure environment.

As to claim 4: it would have been obvious to an ordinary artisan at the time the invention was made to find an optimum size of the parts of the apparatus by routine experimentation depending from the desired placement of the probe and the size and the construction of the vessel.

### ***Response to Arguments***

5. Applicant's arguments filed 10/15/07 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicants allege that the YU document does not suggest a pressure probe in the reactor.

The examiner disagrees: the document is concerned about pressure in the reactor (25). See at least last paragraph on page 3 of the translation.

The applicants allege that Huque teaches only an experimental test, not an actual situation involving an apparatus and a vessel.

This is not persuasive.

The document deals with actual apparatus and removal of actual deposits.

The applicants allege that WO'168 does not teach a pressure sensor. This is not persuasive. The document teaches such sensing means (8). It is noted that the applicants rely on the abstracts of the referenced documents in their response. The examiner would like to note that the rejection was made over the entire document, not the abstract. It is further note that the translation of the document is available through the EPO website free of charge by pushing a single button.

The applicants further allege that there is no suggestion to adapt the pressure measuring probe Langen et al into the sootblower art.

The examiner disagrees. The motivation was provided.

The applicants made an unsupported statement that such motivation is merely "conclusory". The examiner disagrees. The examiner provided an explanation for the motivation statement, a simple statement that Langen et al is not from sootblower art is not sufficient to overcome the provided motivation.

The applicants without showing the difference between Langen et al ask were the features of claims 1, 8, 9, 11, 21 and 24 are found.

The examiner would like to again state that the claimed features can be found in the combined teachings of the applied documents as identified in the rejections and that the specifics of the probe are disclosed by Langen et al at least at Figures 1, 3, 4 and the related description.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

Application/Control Number:  
10/733,535  
Art Unit: 1792

Page 7

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alexander Markoff  
Primary Examiner  
Art Unit 1792

AM

ALEXANDER MARKOFF  
PRIMARY EXAMINER